

ENTERED

June 25, 2018

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CAROL SHAVERS-SMITH,

Plaintiff,

v.

STATE OF TEXAS, *et al.*,

Defendants.

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CIVIL ACTION H-17-2591

ORDER


Pending before the court is a Memorandum and Recommendation (“M&R”) issued by Magistrate Judge Nancy Johnson. Dkt.39. The Magistrate Judge recommends dismissing all of plaintiff Carol Shavers-Smith claims as time-barred by the statute of limitations. *Id.* Shavers-Smith is *pro se*. Shavers-Smith’s complaint states that it is for “civil rights violations” and in the “statement of the claim” section, she states that her claim is for “denial of due process and void order to take our home.” Dkt. 1. She indicates that the dates of the events giving rise to her claim are “November 6, 2012, December 2012, January 2013, April 2013, May 2013, Ejection/Eviction August 21, 2013.” *Id.* In her response to the motions to dismiss, she states that her claims are asserted under 42 U.S.C. § 1983. Dkt. 34. The Magistrate Judge recommends dismissal of Shavers-Smith’s claims because the statute of limitations for § 1983 claims is four years, and the latest event the plaintiff alleges occurred on August 21, 2013. Dkt. 39.

Shavers-Smith filed objections to the M&R in which she discusses allegations about an alleged forged deed of trust and due process violations and asserts that the M&R erroneously found res judicata and collateral estoppel and erroneously followed the basic principles of decision for a motion to dismiss under Rule 12(b)(6). *See* Dkt. 40. The M&R, however, followed the correct rules

regarding evaluating a motion to dismiss under Rule 12(b)(6), and it correctly found that Shavers-Smith's due process claims were barred by the four-year statute-of-limitations. *See* Dkt. 39.

After a de novo review, the court finds that the Magistrate Judge correctly recommended dismissal of Shavers-Smith's claims, which all stem from § 1983, because they are barred by the statute of limitations. This is evident from the face of the complaint. The M&R is therefore ADOPTED IN FULL. The motions to dismiss filed by defendant Leme Properties, Inc. (Dkt. 9), defendant Ivonne Thomas (Dkt. 17), defendants Angel L. Reyes and Associates, P.C. and Chance Oliver (Dkt. 26), and defendant HSBC Bank USA, National Association, as Indenture Trustee for People's Choice Home Loan Securities Trust Series 2005-4 (Dkt. 38) are all GRANTED. Shavers-Smith's claims are DISMISSED WITH PREJUDICE. The court will issue a final judgment concurrently with this order.

Signed at Houston, Texas on June 25, 2018.



Gray H. Miller
United States District Judge